

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GANART TECHNOLOGIES, INC.
Plaintiffs,

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3:14-cv-616

V.

TURNKEY KIOSKS, LLC
Defendants.

DEFENDANT TURNKEY KIOSK, LLC'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to the terms and provisions of 28 U.S.C. §§ 1441 and 1446 and Local Rule 81 of the United States District Court for the Northern District of Texas, Turnkey Kiosks, LLC ("Turnkey"), the Defendant in the cause styled *Ganart Technologies, Inc. v. Turnkey Kiosks, LLC*, originally pending as Cause No. 13-14212 in the 191st Judicial District Court of Dallas County, Texas, files this Notice of Removal to the United States District Court for the Northern District of Texas, Dallas Division.

I.

BASIS FOR REMOVAL – DIVERSITY JURISDICTION

This Notice of Removal is filed on the basis of diversity of citizenship pursuant to 28 U.S.C. § 1332. Diversity jurisdiction exists as the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and complete diversity of citizenship exists between Plaintiff and Defendant.

II.

CITIZENSHIP OF PLAINTIFF

According to Plaintiff's Original and First Amended Petition, Plaintiff Ganart Technologies, Inc. ("Ganart") is a Delaware Corporation with its principal place of business located at 1700 Columbian Club Drive, Carrollton, Texas 75006.¹

III. CITIZENSHIP OF DEFENDANT

Defendant Turnkey, at the time of the initial filing of this action and at the current time of the removal of this action, is a limited liability company organized under the laws of Arizona. The four owner/members of Turnkey are Gary K. Strachan, Margaret Strachan, Casey Strachan and Kelly Strachan. The owner/members of Turnkey all reside in Maricopa County, Arizona. As such, Turnkey is not and has not been a citizen of the State of Texas. Thus, complete diversity between Plaintiff and Defendant exists.

IV. VENUE

The Dallas Division of the Northern District of Texas is the United States District and Division embracing Dallas County, Texas, the county in which the State Court Action was filed and is pending. *See* 28 U.S.C. § 124(b)(2). Therefore, venue of this removed action is proper in this Court.

V. AMOUNT IN CONTROVERSY

This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332. The amount in controversy is in excess of \$75,000, exclusive of interest and costs. On the face of Plaintiff's Original Petition, Plaintiff states that it "Seeks monetary relief over \$1,000,000.00."²

VI. CONSENT

At the time of filing this Removal, Defendant Turnkey is the only Defendant, has been served with citation. The time for Turnkey's answer to the First Amended Petition is come due.

¹ Plaintiff's Original Petition, ¶ 5.

² Plaintiff's Original Petition, ¶ 3.

There are no other Defendants in this matter and therefore, further consent for removal is not required.

**VII.
NATURE OF CASE**

This action involves an alleged breach of a Non-Disclosure Agreement entered into between Plaintiff and Turnkey. Turnkey is a manufacturer and supplier of custom kiosks, including financial services kiosks, automatic teller machines, outdoor service kiosks, ticketing kiosks, print-on-demand kiosks, and other custom ordered kiosks, to customers across various industries. Plaintiff and Turnkey entered into a business relationship to mutually develop products that would serve their combined business interests. At some point, the business relationship broke down. Plaintiff alleges that Turnkey violated the parties' Non-Disclosure Agreement by doing business with another company, Robocoin Technologies, LLC. Turnkey denies that its business relationship with Robocoin is a violation of the parties' Non-Disclosure Agreement.

Plaintiff subsequently filed its Citation and Original Petition on December 3, 2013, and filed a First Amended Petition on December 13, 2013. Plaintiff asserts claims for breach of contract, violation of the Texas Trade Secrets Act, and injunctive relief.

**VIII.
JURY DEMAND**

Turnkey hereby respectfully demands that a jury be empaneled to try the facts and issues of this cause.

**IX.
REMOVAL IS TIMELY**

Turnkey timely files this Notice of Removal of Action pursuant to 28 U.S.C. § 1446(b). Specifically, Plaintiff filed suit on December 3, 2013. Turnkey was served on January 21, 2014 by certified mail from the Texas Secretary of State with the Citation and Plaintiff's First

Amended Original Petition.³ This Removal is filed within thirty days of service of the Citation and First Amended Original Petition. *See* 28 U.S.C. § 1446(b). Removal is therefore timely.

**X.
NOTICE TO THE STATE COURT**

Defendant Turnkey has filed with the Clerk of the 191st Judicial District Court of Dallas County, Texas, a Notice of Removed Action simultaneously with/or immediately after the filing of this Notice.

**XI.
STATE COURT PLEADINGS PROVIDED**

Pursuant to Local Rule 81 and 28 U.S.C. § 1446(a), this Notice of Removal is accompanied by copies of the following:

- A. An index of all documents that clearly identifies each document and indicates the date the document was filed in state court;
- B. Copy of the docket sheet in the state court action;
- C. Each document filed in the state court action, except discovery material (if filed on paper, each document must be individually tabbed and arranged in chronological order according to the state court file date; if filed by electronic means, each document must be filed as a separate attachment); and
- D. a separately signed certificate of interested persons that complies with LR 3.1(c) or 3.2(e).

³ *See* Certification from the Texas Secretary of State dated January 27, 2014, attached hereto.

WHEREFORE, PREMISES CONSIDERED, Defendant Turnkey Kiosks, LLC respectfully prays that this Notice of Removal of Action be filed; that the civil action pending in the 191st Judicial District Court of Dallas County, Texas, Cause No. 13-14212, be removed to and proceed in the United States District Court for the Northern District of Texas, Dallas Division; and for any further relief, both at law or in equity, to which Turnkey may show themselves to be justly entitled.

Respectfully submitted,

DAVIS MILES MCGUIRE GARDNER, PLLC

By: /s/ Joshua W. Carden

Joshua W. Carden
Texas Bar No. 24050379
545 E. John Carpenter Freeway, Suite 300
Irving, Texas 75062
P. 972.674.3885
F. 972.674.2935
jcarden@davismiles.com
Attorney for Defendant, Turnkey Kiosks,
LLC

CERTIFICATE OF SERVICE

On February 18 2014, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Northern District of Texas, using the CM/ECF system, which will send a notice of electronic filing to all counsel of record. I hereby certify that I have served all counsel of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2), including those parties identified below.

/s/ Joshua W. Carden

Joshua W. Carden

Jonathan C. LaMendola
Cobb Martinez Woodward, PLLC
1700 Pacific Avenue, Suite 3100
Dallas, TX 75201

<input type="checkbox"/>	Certified Mail, Return Receipt Requested
X	US Regular First Class Mail
X	Facsimile 214-220-5254
<input type="checkbox"/>	Hand Delivery